

REMARKS

Claims 1-20 are pending in the present application. By this Amendment, previously presented claims 1, 4-6 and 9-10 have been amended; and new claims 11-20 have been added. Applicants respectfully request reconsideration of the present claims in view of the foregoing amendments and the following remarks.

I. Formal Matters:

Previously presented claims 1-10 were subject to the following restriction requirement and election of species requirement.

Restriction Requirement:

The July 11, 2011 Office Action proposes to separate previously presented claims 1-10 into ten separate groups:

Group I, Claims 1-7 and 9, directed to compounds and insecticidal compositions of formula I wherein X is a N, Y is C=O, p and q are both 2, and Ra, R², R³ and R⁴ are all H;¹

Group II, Claims 1 and 3-7, directed to compounds and insecticidal compositions of formula I wherein X is a O, Y is a bond, p and q are both 2, and Ra, R², R³ and R⁴ are all H;

Group III, Claims 1 and 3-7, directed to compounds and insecticidal compositions of formula I not included in Group I or Group II;

Group IV, Claim 8, directed to compounds of formula II, wherein p and q are both 2, and Ra, R², R³ and R⁴ are all H;

Group V, Claim 8, directed to compounds of formula III, wherein X is a N, Y is C=O, p and q are both 2, and Ra, R², R³ and R⁴ are all H;

Group VI, Claim 8, directed to compounds and insecticidal compositions of formula II not included in Group IV;

Group VII, Claim 8, directed to compounds and insecticidal compositions of formula III not included in Group V;

Group VIII, Claim 10, directed to methods of using compounds and compositions of

¹ Applicants interpret this group to comprise compounds and compositions wherein X is a N, Y is C=O, p and q are both 2, Ra, R² and R³ are all H, and n is 0 given that R⁴ as hydrogen is not an option in claim 1.

Group I;

Group IX, Claim 10, directed to methods of using compounds and compositions of Group II; and

Group X, Claim 10, directed to methods of using compounds and compositions of Group III.

Applicants respectfully submit that the search and examination associated with Groups I-X above is not unduly burdensome on Examiner Desai. As stated in the MPEP, §803, "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent and distinct inventions." For at least this reason, Applicants respectfully submit that the restriction between Groups I-X should be withdrawn.

In addition, Applicants respectfully submit that at least the claims of Groups I, V, VII and VIII should be considered and examined together. The present application is a national stage application and should be given special consideration as noted in the following instructions from MPEP §1893.03(d):

As provided in 37 CFR 1.475(b), a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

- (1) A product and a process specially adapted for the manufacture of said product; or
- (2) **A product and process of use of said product;** or
- (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
- (4) A process and an apparatus or means specifically designed for carrying out the said process; or
- (5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process. (Emphasis added.)

For at least the reasons provided above, Applicants respectfully submit that previously presented claims 1-10, as well as new claims 11-20 should be examined together.

If Examiner Desai maintains the present restriction requirement, Applicants elect, **with traverse**, the claims of Group I, Claims 1-7 and 9, directed to compounds and insecticidal compositions of formula I wherein X is a N, Y is C=O, p and q are both 2, and Ra, R², R³ and R⁴

are all H.

In addition, Applicants further note the following instructions from MPEP §1893.03(d):

If an examiner (1) determines that the claims lack unity of invention and (2) requires election of a single invention, when all of the claims drawn to the elected invention are allowable (i.e., meet the requirements of 35 U.S.C. 101, 102, 103 and 112), the nonelected invention(s) should be considered for rejoinder. **Any nonelected product claim that requires all the limitations of an allowable product claim, and any nonelected process claim that requires all the limitations of an allowable process claim, should be rejoined.** See MPEP § 821.04**. Any nonelected processes of making and/or using an allowable product should be considered for rejoinder**. >The examiner should notify applicants of potential rejoinder of non-elected process claims by placing form paragraph 8.21.04 at the end of any lack of unity determination made between a product and a process of making the product or between a product and a process of using the product. (Emphasis added.)

Applicants respectfully submit that if (1) claim 10 (and any other claims depending on independent claim 1) is withdrawn from consideration, and (2) independent claim 1 is found to be allowable, claim 10 (and any other withdrawn claims depending on independent claim 1) should be rejoined according to the bold and underlined portion of MPEP §1893.03(d) provided above.

Election of Species Requirement:

Applicants note that the July 11, 2011 Office Action did not require an election of species if Group I was selected.

II. New Claims 11-20:

New claims 11-20 are directed to specific embodiments of Applicants' claimed invention.

Applicants respectfully submit that new claims 11-20 read on the above elected invention of Group I.

Support for claims 11-20 may be found in at least the following locations of Applicants' original specification: page 1, lines 10-14, and original claim 1 (claims 11-12); page 12, line 1, page 15, line 24, and original claim 3 (claim 13); page 15, line 27, and original claim 7

(claim 14); original claim 1 (claim 15); page 15, lines 9-19, and original claim 1 (claims 16-17); page 95, line 12 (claim 18); and page 84, lines 1-5, and original claim 9 (claims 19-20).

III. Conclusion:

Applicants submit that claims 1-20 define patentable subject matter. Accordingly, Applicants respectfully request allowance of these claims.

Should Examiner Desai believe that further action is necessary to place the application in better condition for allowance, Examiner Desai is respectfully requested to contact Applicants' representative at the telephone number listed below.

No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 503025.

Respectfully submitted,

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